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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/678,516	10/02/2003	Wataru Shinozaki	03600/LH	1969
1933	7590	03/30/2006	EXAMINER	
FRISHAUF, HOLTZ, GOODMAN & CHICK, PC 220 Fifth Avenue 16TH Floor NEW YORK, NY 10001-7708			CAO, PHUONG THAO	
		ART UNIT	PAPER NUMBER	
			2164	

DATE MAILED: 03/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/678,516	SHINOZAKI, WATARU	
	<b>Examiner</b>	<b>Art Unit</b>	
	Fuong-Thao Cao	2164	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 02 October 2003.  
 2a) This action is FINAL.                  2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-4 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-4 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 19 March 2004 and 07 May 2004 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1.) Certified copies of the priority documents have been received.  
 2.) Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3.) Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>10/2/2003</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____                                    |

**DETAILED ACTION**

1. This action is in response to Application filed on 10/02/2003.
2. Claims 1-4 are pending.

*Foreign Priority*

3. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file. This application claimed the foreign priority of a foreign application JAPAN 2002-296602 (10/09/2002). A certified copy of the foreign application JAPAN 2002-296602 was received and considered.

*Information Disclosure Statement*

4. The Information Disclosure Statement filed by the Applicant on 10/02/2003 was received and considered. A copy of reviewed IDS is enclosed.

*Claim Rejections - 35 USC § 101*

5. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Art Unit: 2164

6. Claims 1-4 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claim 1 is non-statutory as software per se. A data editing apparatus is claimed without any hardware recited.

Claims 2 and 3 are rejected as incorporating the deficiencies of claim 1 upon which they depend.

Claim 4 is non-statutory as descriptive material per se. A data editing program is claimed but not tangibly embodied on some computer-readable medium, a requirement for compliance with the provisions of 35 U.S.C. § 101 in view of the Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility, published on 26 October 2005, which can be found at

[http://www.uspto.gov/web/offices/pac/dapp/ola/preognote/guidelines101\\_20051026.pdf](http://www.uspto.gov/web/offices/pac/dapp/ola/preognote/guidelines101_20051026.pdf), particularly with respect to ANNEX IV Computer-Related Nonstatutory Subject Matter, beginning on page 50.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 2164

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

8. Claims 1-2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nishiyama et al. (Publication No US 2003/0055905) and further in view of Imura et al. (Publication No US 2003/0011687).

As to claim 1, Nishiyama et al. teach:

“A data editing apparatus” (see [0002], [0006], [0007] and [0026]) comprising:

“a first folder to store audio data and image data which is linked with the audio data at a predetermined playback position thereof” (see [0028] and [0030] wherein root directory which stores both image data and sound data is equivalent to Applicant’s “first folder”);

“a second folder to store only image data without storing any audio data” (see [0026] wherein a directory for storing image data is equivalent to Applicant’s “second folder”);

“link release means for releasing a link between arbitrary audio data and image data linked therewith stored in the first folder” (see [0075] wherein deleting “link only” is equivalent to Applicant’s “link release means”).

Nishiyama et al. do not teach “moving means for moving image data, of which link information is canceled, from the first folder to the second folder when the link is released through the link release means”.

Imura et al. teach moving an image file from one folder to another folder (see [0012] and [0045]).

Art Unit: 2164

It would be obvious to a person having ordinary skill in the art at the time the invention was made to have modified Nishiyama et al. by the teaching of Imura et al. to include moving means for moving image data, of which link information is canceled, from the first folder to the second folder when the link is released through the link release means, since doing as such would allow more effectively managing data in the system.

As to claim 2, Nishiyama et al. as modified teach:

“inhibiting means for inhibiting the movement of the image data, of which link information is canceled, from the first folder to the second folder when the same image data is included in the second folder” (see [0049] and [0052]).

As to claim 4, Nishiyama et al. teach:

“A data editing program capable of permitting a computer to edit audio data and image data linked with the audio data at a predetermined playback position thereof, the audio data and the image data being stored in the first folder” (see [0028], [0030], [0054] and [0075]) comprising:

“a function of releasing a link between arbitrary audio data and the corresponding image data stored in the first folder” (see [0075] wherein deleting “link only” is equivalent to Applicant’s “a function of releasing a link...”).

Nishiyama et al. do not teach “a function of moving the image data, of which link information is canceled, from the first folder to the second folder when the link is released”.

Imura et al. teach moving an image file from one folder to another folder (see [0012] and [0045]).

It would be obvious to a person having ordinary skill in the art at the time the invention was made to have modified Nishiyama et al. by the teaching of Imura et al. to include a function of moving the image data, of which link information is canceled, from the first folder to the second folder when the link is released, since doing as such would allow more effectively managing data in the system.

9. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nishiyama et al. (Publication No US 2003/0055905) in view of Imura et al. (Publication No US 2003/0011687) as in claim 1 above, and further in view of Miller et al. (Publication No US 2003/0018777)

Nishiyama et al. as modified do not teach "wherein when canceling the link information, the link release means rewrites header information of the audio data and also rewrite header information of the image data to release the link between the audio data and the image data".

Nishiyama et al. teach when canceling the link information, the link release means rewrites link information stored as file attributes of audio file and image file (see [0075]).

Miller et al. teach link data can be stored as header information in file header of audio file and image file (see [0075] and [0089]).

It would be obvious to a person having an ordinary skill in the art at the time the invention was made to have modified Nishiyama et al. as modified by the teaching of Miller et al. to store link data within the audio data and image data, especially in their file header since this provides an effective and convenient way to manage and control the link information.

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10. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure.

Greenwood et al. (US Patent No 6,640,044) teach editing apparatus for editing source video and/or audio material.

Otsuka (US Patent No 5,262,877) teaches an image and voice editing system for editing a file recording medium having a first recording area with same frames including prerecorded images and voices and a second recording area available for recording thereon. It provides a way to incorporate the desired image recorded in the second recording area into the same frame recorded in the first recording area to reproduce the desired image together with a corresponding voice.

Camara et al. (Publication No US 2004/0001631) teach a method for generating metadata for acquired images. The method further includes storing metadata as header information and accessing those data as needed.

Art Unit: 2164

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phuong-Thao Cao whose telephone number is (571) 272-2735. The examiner can normally be reached on 8:30 AM - 5:00 PM (Mon - Fri).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Rones can be reached on (571) 272-4085. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

PTC

March 23, 2006

*Leslie Wong  
Primary Examiner*